IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
WEDNESDAY, THE TWENTY SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE SRI JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 3374 of 2004

Between:
Sri Shiridi Sai Baba Weigh Bridge, Rep.by its Proprietor Smt T.Bharathi, W/o T.Rajkumar, R/o Visaka 'A' Colony, Plot No.9, Opp: Swamy Naidu House, Srikakulam Town, Mandal & District.
..... PETITIONER

AND

1 The Senior Branch Manager, A.P.State Financial Corporation, 4-1-139/1, Palakonda Road, Srikakulam - 532 001.
2 The A.P.State Financial Corporation, rep.by its Managing Director, Chirag Ali Lane, Hyderabad.
.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ, Order or direction mostly one which is in the nature of writ of Mandamus declaring the action of the Respondents in issuing news paper advertisement on 29-07-2003 and 20-02-2004 for Sale of the Land and building of the Petitioner weigh bridge situated at Yetturallapadu Village, Kotabomalli Mandal, Srikakulam District and the House Plot admeasuring 483 Sq.Yards in Sy.No.154/10 of Hayathnagar, Gujarathipeta, Srikakulam Town as illegal, irregular, arbitrary, unjustified, unconstitutional, unsustainable and direct the respondents to allow the Petitioner to sell a house site plot by procuring the buyers by himself duly releasing the property for clearing of the outstanding loan amount under one time settlement scheme offered on 29-10-2002 by extending the time for payment.

Counsel for the Petitioner: MR.P.VEERA REDDY

Counsel for the Respondent Nos.1 & 2: MR.Y.N.LOHITA ,Standing Counsel for A.P.S.F.C.

The Court made the following **:**

ORDER:

Heard both sides and at the request of learned counsel on either side, the writ petition itself is taken up for disposal.

The petitioner, who is the borrower from the respondents herein, filed this writ petition, inter alia, seeking a writ of mandamus against the action of the respondents herein for selling the land and building and other properties for the purpose of realization of the amounts as illegal and bad.

The case of the petitioner is that no doubt she had obtained the loan and established the weigh bridge. However, due to incidental circumstances, it could not be run properly and as a result of which, she raised a dispute before Insurance Ombudsman, Hyderabad and the same is pending. Therefore she could not stick to the instalments accrued. Though, initially, she had paid several instalments, in view of the default committed, the respondents had resorted to take action under Section 29 of the State Financial Corporation Act, 1951 for the purpose of sale and accordingly issued a notice. Hence, the writ petition.

It is submitted by the learned counsel for the respondents that though certain instalments have been paid, but due to the default committed by the petitioner there is no other option for the respondents except to auction the said property for the purpose of realization of the amount due from the petitioner. As per the interim order dated 24-02-2004, the petitioner has been directed to deposit a sum of Rs. 2,00,000/- and as on the date the total amount due swells up to more than six lakhs and odd and therefore, the petitioner cannot escape the liability.

The learned counsel for the petitioner submits that out of the properties which were given as security, one of the same, which is given as collateral security, is released to her, she would sell and

pay the entire amount due to the respondents, instead of allowing the respondents to conduct any auction wherein there is every likelihood of offering lesser amounts by the 3rd parties.

Though the learned standing counsel appearing on behalf of the respondents did not support the request made by the petitioner as to the release of one of properties, but he submits that it is always open for the petitioner to make the payments and the Corporation is empowered to release the security.

Having considered the submissions made on either side and also on a perusal of the material on record, I am of the view that it is a bonafide request made by the petitioner who has come out with an offer for selling the property, which is given as collateral security with the intervention of the respondents themselves and with their participation, so that more money can be expected for discharging the entire liability.

In the circumstances, the writ petition is accordingly disposed of with a direction to the petitioner to approach the respondents herein with similar such offer, for which the respondents should consider the same with proper perspective and allow the petitioner to sell the property to any 3rd party. However, it is made clear that all the entire negotiations and ultimate transactions should be finalized only through the respondents.

The petitioner shall approach the respondents within a period of two weeks from today and the entire transaction should be completed within a period of three months thereafter. It is needless to mention that in the event of any failure in completing this exercise, it is open for the respondents to proceed further in accordance with law.

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22-09-2004

Note
Issue CC by
one week
(B/o)
sj/rkk

To

1 The Senior Branch Manager, A.P.State Financial Corporation, 4-1-139/1, Palakonda Road, Srikakulam - 532 001.

2 The Managing Director, A.P.State Financial Corporation, Chirag Ali Lane, Hyderabad.

3 Two CD copies.